

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**HEATHER MARIE TOOHEY**

**v.**

**UNITED STATES of AMERICA**

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**A-12-CV-683 LY**

**REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

TO: THE HONORABLE LEE YEAKEL  
UNITED STATES DISTRICT JUDGE

Before the Court is the above-styled case. The Court submits this Report and Recommendation to the United States District Court pursuant to 28 U.S.C. §636(b) and Rule 1 of Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges.

**I. ANALYSIS**

On July 31, 2012, this Court denied Plaintiff's Motion to Proceed In Forma Pauperis after finding that Plaintiff had sufficient resources to pay the requisite \$350.00 filing fee in this case. See July 31, 2012 Order (Clerk's Docket No. 9). In that Order, Court also ordered Plaintiff "to submit to the Clerk of the Court the \$350.00 filing fee in this cause on or before August 13, 2012," and warned Plaintiff that failure to pay the filing fee on or before that date would result in the Court recommending that her case be dismissed without prejudice. Plaintiff has not paid the filing fee.

**II. RECOMMENDATION**

The Magistrate Judge RECOMMENDS that the District Court DISMISS Plaintiff's case without prejudice.

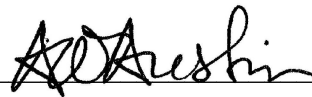
### III. WARNINGS

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen days after the party is served with a copy of the Report shall bar that party from *de novo* review by the District Court of the proposed findings and recommendations in the Report and, except upon grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106 S. Ct. 466, 472-74 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

To the extent that a party has not been served by the Clerk with this Report & Recommendation electronically pursuant to the CM/ECF procedures of this District, the Clerk is directed to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested.

SIGNED this 6<sup>th</sup> day of September, 2012.

A handwritten signature in black ink, appearing to read "Andrew W. Austin", is written over a horizontal line.

ANDREW W. AUSTIN  
UNITED STATES MAGISTRATE JUDGE